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Panel A

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-009758

12 **KARL BANDYAN, M.D.**
13 **7020 LENNOX AVENUE # 1**
VAN NUYS, CA 91405

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Physician's and Surgeon's Certificate No. A**
15 **81272**

16 Respondent.

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Tan N. Tran,
24 Deputy Attorney General.

25 2. Respondent KARL BANDYAN, M.D. (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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3. On or about December 4, 2002, the Board issued Physician's and Surgeon's Certificate No. A 81272 to KARL BANDYAN, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-009758, and will expire on November 30, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2014-009758 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 15, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-009758 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2014-009758. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2014-009758.

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10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board of California or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 81272 issued to Respondent KARL BANDYAN, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions.

1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the practice of medicine for 60 days beginning the sixteenth (16th) day after the effective date of this decision.

2. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. For the first two years of his probation, Respondent shall not order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5.

If Respondent forms the medical opinion, after an appropriate prior examination and a medical indication, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following an appropriate prior examination and a medical indication, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

1 3. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is
2 prohibited from practicing medicine until Respondent provides documentary proof to the Board
3 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement
4 Administration for cancellation, together with any state prescription forms and all controlled
5 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without
6 the prior written consent of the Board or its designee.

7 4. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO
8 RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled
9 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
10 recommendation or approval which enables a patient or patient's primary caregiver to possess or
11 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
12 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
13 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
14 and 4) the indications and diagnosis for which the controlled substances were furnished.

15 Respondent shall keep these records in a separate file or ledger, in chronological order. All
16 records and any inventories of controlled substances shall be available for immediate inspection
17 and copying on the premises by the Board or its designee at all times during business hours and
18 shall be retained for the entire term of probation.

19 5. EDUCATION COURSE. Within 60 calendar days of the effective date of this
20 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
21 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
22 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
23 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
24 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
25 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
26 completion of each course, the Board or its designee may administer an examination to test
27 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
28 hours of CME of which 40 hours were in satisfaction of this condition.

1 6. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
3 advance by the Board or its designee. Respondent shall provide the approved course provider
4 with any information and documents that the approved course provider may deem pertinent.
5 Respondent shall participate in and successfully complete the classroom component of the course
6 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
7 complete any other component of the course within one (1) year of enrollment. The prescribing
8 practices course shall be at Respondent's expense and shall be in addition to the Continuing
9 Medical Education (CME) requirements for renewal of licensure.

10 A prescribing practices course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
12 or its designee, be accepted towards the fulfillment of this condition if the course would have
13 been approved by the Board or its designee had the course been taken after the effective date of
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 7. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
19 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
20 advance by the Board or its designee. Respondent shall provide the approved course provider
21 with any information and documents that the approved course provider may deem pertinent.
22 Respondent shall participate in and successfully complete the classroom component of the course
23 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
24 complete any other component of the course within one (1) year of enrollment. The medical
25 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
26 Medical Education (CME) requirements for renewal of licensure.

27 A medical record keeping course taken after the acts that gave rise to the charges in the
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have
2 been approved by the Board or its designee had the course been taken after the effective date of
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its
5 designee not later than 15 calendar days after successfully completing the course, or not later than
6 15 calendar days after the effective date of the Decision, whichever is later.

7 8. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
8 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
9 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
10 Respondent shall participate in and successfully complete that program. Respondent shall
11 provide any information and documents that the program may deem pertinent. Respondent shall
12 successfully complete the classroom component of the program not later than six (6) months after
13 Respondent's initial enrollment, and the longitudinal component of the program not later than the
14 time specified by the program, but no later than one (1) year after attending the classroom
15 component. The professionalism program shall be at Respondent's expense and shall be in
16 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

17 A professionalism program taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
19 or its designee, be accepted towards the fulfillment of this condition if the program would have
20 been approved by the Board or its designee had the program been taken after the effective date of
21 this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the program or not later
24 than 15 calendar days after the effective date of the Decision, whichever is later.

25 9. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
26 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
27 program approved in advance by the Board or its designee. Respondent shall successfully
28 complete the program not later than six (6) months after Respondent's initial enrollment unless

1 the Board or its designee agrees in writing to an extension of that time.

2 The program shall consist of a comprehensive assessment of Respondent's physical and
3 mental health and the six general domains of clinical competence as defined by the Accreditation
4 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
5 Respondent's current or intended area of practice. The program shall take into account data
6 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
7 Accusation(s), and any other information that the Board or its designee deems relevant. The
8 program shall require Respondent's on-site participation for a minimum of three (3) and no more
9 than five (5) days as determined by the program for the assessment and clinical education
10 evaluation. Respondent shall pay all expenses associated with the clinical competence
11 assessment program.

12 At the end of the evaluation, the program will submit a report to the Board or its designee
13 which unequivocally states whether the Respondent has demonstrated the ability to practice
14 safely and independently. Based on Respondent's performance on the clinical competence
15 assessment, the program will advise the Board or its designee of its recommendation(s) for the
16 scope and length of any additional educational or clinical training, evaluation or treatment for any
17 medical condition or psychological condition, or anything else affecting Respondent's practice of
18 medicine. Respondent shall comply with the program's recommendations.

19 Determination as to whether Respondent successfully completed the clinical competence
20 assessment program is solely within the program's jurisdiction.

21 If Respondent fails to enroll, participate in, or successfully complete the clinical
22 competence assessment program within the designated time period, Respondent shall receive a
23 notification from the Board or its designee to cease the practice of medicine within three (3)
24 calendar days after being so notified. The Respondent shall not resume the practice of medicine
25 until enrollment or participation in the outstanding portions of the clinical competence assessment
26 program have been completed. If the Respondent did not successfully complete the clinical
27 competence assessment program, the Respondent shall not resume the practice of medicine until a
28 final decision has been rendered on the accusation and/or a petition to revoke probation. The

1 cessation of practice shall not apply to the reduction of the probationary time period.

2 10. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
3 Respondent shall submit to the Board or its designee for prior approval the name and
4 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
5 has a doctoral degree in psychology and at least five years of postgraduate experience in the
6 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
7 undergo and continue psychotherapy treatment, including any modifications to the frequency of
8 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

9 The psychotherapist shall consider any information provided by the Board or its designee
10 and any other information the psychotherapist deems relevant and shall furnish a written
11 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
12 psychotherapist with any information and documents that the psychotherapist may deem
13 pertinent.

14 Respondent shall have the treating psychotherapist submit quarterly status reports to the
15 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
16 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
17 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
18 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
19 period of probation shall be extended until the Board determines that Respondent is mentally fit
20 to resume the practice of medicine without restrictions.

21 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

22 11. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
23 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
24 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
25 who shall consider any information provided by the Board or designee and any other information
26 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
27 designee. Respondent shall provide the evaluating physician with any information and
28 documentation that the evaluating physician may deem pertinent.

1 Following the evaluation, Respondent shall comply with all restrictions or conditions
2 recommended by the evaluating physician within 15 calendar days after being notified by the
3 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
4 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
5 Board or its designee for prior approval the name and qualifications of a California licensed
6 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
7 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
8 further notice from the Board or its designee.

9 The treating physician shall consider any information provided by the Board or its designee
10 or any other information the treating physician may deem pertinent prior to commencement of
11 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
12 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
13 Respondent shall provide the Board or its designee with any and all medical records pertaining to
14 treatment that the Board or its designee deems necessary.

15 If, prior to the completion of probation, Respondent is found to be physically incapable of
16 resuming the practice of medicine without restrictions, the Board shall retain continuing
17 jurisdiction over Respondent's license and the period of probation shall be extended until the
18 Board determines that Respondent is physically capable of resuming the practice of medicine
19 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

20 12. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
21 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
22 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
23 licenses are valid and in good standing, and who are preferably American Board of Medical
24 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
25 relationship with Respondent, or other relationship that could reasonably be expected to
26 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
27 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
28 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

1 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
2 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
3 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
4 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
5 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
6 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
7 signed statement for approval by the Board or its designee.

8 Within 60 calendar days of the effective date of this Decision, and continuing throughout
9 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
10 make all records available for immediate inspection and copying on the premises by the monitor
11 at all times during business hours and shall retain the records for the entire term of probation.

12 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
13 date of this Decision, Respondent shall receive a notification from the Board or its designee to
14 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
15 shall cease the practice of medicine until a monitor is approved to provide monitoring
16 responsibility.

17 The monitor(s) shall submit a quarterly written report to the Board or its designee which
18 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
19 are within the standards of practice of medicine, and whether Respondent is practicing medicine
20 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
21 that the monitor submits the quarterly written reports to the Board or its designee within 10
22 calendar days after the end of the preceding quarter.

23 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
24 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
25 name and qualifications of a replacement monitor who will be assuming that responsibility within
26 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
27 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
28 notification from the Board or its designee to cease the practice of medicine within three (3)

1 calendar days after being so notified. Respondent shall cease the practice of medicine until a
2 replacement monitor is approved and assumes monitoring responsibility.

3 In lieu of a monitor, Respondent may participate in a professional enhancement program
4 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
5 review, semi-annual practice assessment, and semi-annual review of professional growth and
6 education. Respondent shall participate in the professional enhancement program at Respondent's
7 expense during the term of probation.

8 13. PROHIBITED PRACTICE. During the first three years of his probation, Respondent
9 is prohibited from practicing pain management. After the effective date of this Decision, all
10 patients being treated by the Respondent shall be notified that the Respondent is prohibited from
11 practicing pain management. Any new patients must be provided this notification at the time of
12 their initial appointment.

13 Respondent shall maintain a log of all patients to whom the required oral notification was
14 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
15 medical record number, if available; 3) the full name of the person making the notification; 4) the
16 date the notification was made; and 5) a description of the notification given. Respondent shall
17 keep this log in a separate file or ledger, in chronological order, shall make the log available for
18 immediate inspection and copying on the premises at all times during business hours by the Board
19 or its designee, and shall retain the log for the entire term of probation.

20 14. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
21 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
22 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
23 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
24 board certified physician and surgeon. The examiner shall consider any information provided by
25 the Board or its designee and any other information he or she deems relevant, and shall furnish a
26 written evaluation report to the Board or its designee.

27 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
28 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of

1 physicians and surgeons with substance abuse disorders, and is approved by the Board or its
2 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
3 professional standards for conducting substance abuse clinical diagnostic evaluations. The
4 evaluator shall not have a current or former financial, personal, or business relationship with
5 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
6 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
7 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
8 threat to himself or herself or others, and recommendations for substance abuse treatment,
9 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
10 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
11 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
12 hours of such a determination.

13 In formulating his or her opinion as to whether Respondent is safe to return to either part-
14 time or full-time practice and what restrictions or recommendations should be imposed, including
15 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
16 following factors: Respondent's license type; Respondent's history; Respondent's documented
17 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
18 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
19 history and current medical condition; the nature, duration and severity of Respondent's
20 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
21 the public.

22 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
23 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
24 requests additional information or time to complete the evaluation and report, an extension may
25 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
26 assigned the matter.

27 The Board shall review the clinical diagnostic evaluation report within five (5) business
28 days of receipt to determine whether Respondent is safe to return to either part-time or full-time

1 practice and what restrictions or recommendations shall be imposed on Respondent based on the
2 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
3 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
4 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
5 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
6 Regulations.

7 Clinical diagnostic evaluations conducted prior to the effective date of this Decision shall
8 not be accepted towards the fulfillment of this requirement. The cost of the clinical diagnostic
9 evaluation, including any and all testing deemed necessary by the examiner, the Board or its
10 designee, shall be borne by the licensee.

11 Respondent shall not engage in the practice of medicine until notified by the Board or its
12 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
13 not practicing medicine shall not be counted toward completion of the term of probation.
14 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
15 times per week while awaiting the notification from the Board if he or she is fit to practice
16 medicine safely.

17 Respondent shall comply with all restrictions or conditions recommended by the examiner
18 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
19 by the Board or its designee.

20 15. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)
21 days of the effective date of this Decision, Respondent shall provide to the Board the names,
22 physical addresses, mailing addresses, and telephone numbers of any and all employers and
23 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's
24 worksite monitor, and Respondent's employers and supervisors to communicate regarding
25 Respondent's work status, performance, and monitoring.

26 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
27 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
28 privileges.

1 16. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
2 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
3 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
4 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall
5 make daily contact with the Board or its designee to determine whether biological fluid testing is
6 required. Respondent shall be tested on the date of the notification as directed by the Board or its
7 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at
8 any time, including weekends and holidays. Except when testing on a specific date as ordered by
9 the Board or its designee, the scheduling of biological fluid testing shall be done on a random
10 basis. The cost of biological fluid testing shall be borne by the Respondent.

11 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
12 During the second year of probation and for the duration of the probationary term, up to five (5)
13 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
14 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
15 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
16 of random tests to the first-year level of frequency for any reason.

17 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
18 approved in advance by the Board or its designee, that will conduct random, unannounced,
19 observed, biological fluid testing and meets all of the following standards:

20 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
21 Association or have completed the training required to serve as a collector for the United
22 States Department of Transportation.

23 (b) Its specimen collectors conform to the current United States Department of
24 Transportation Specimen Collection Guidelines.

25 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
26 by the United States Department of Transportation without regard to the type of test
27 administered.

28 (d) Its specimen collectors observe the collection of testing specimens.

1 (e) Its laboratories are certified and accredited by the United States Department of Health
2 and Human Services.

3 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day
4 of receipt and all specimens collected shall be handled pursuant to chain of custody
5 procedures. The laboratory shall process and analyze the specimens and provide legally
6 defensible test results to the Board within seven (7) business days of receipt of the
7 specimen. The Board will be notified of non-negative results within one (1) business day
8 and will be notified of negative test results within seven (7) business days.

9 (g) Its testing locations possess all the materials, equipment, and technical expertise
10 necessary in order to test Respondent on any day of the week.

11 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
12 for the detection of alcohol and illegal and controlled substances.

13 (i) It maintains testing sites located throughout California.

14 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
15 computer database that allows the Respondent to check in daily for testing.

16 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
17 access to drug test results and compliance reporting information that is available 24 hours a
18 day.

19 (l) It employs or contracts with toxicologists that are licensed physicians and have
20 knowledge of substance abuse disorders and the appropriate medical training to interpret
21 and evaluate laboratory biological fluid test results, medical histories, and any other
22 information relevant to biomedical information.

23 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
24 while practicing, even if the Respondent holds a valid prescription for the substance.

25 Prior to changing testing locations for any reason, including during vacation or other travel,
26 alternative testing locations must be approved by the Board and meet the requirements above.

27 The contract shall require that the laboratory directly notify the Board or its designee of
28 non-negative results within one (1) business day and negative test results within seven (7)

1 business days of the results becoming available. Respondent shall maintain this laboratory or
2 service contract during the period of probation.

3 A certified copy of any laboratory test result may be received in evidence in any
4 proceedings between the Board and Respondent.

5 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
6 administered to himself or herself a prohibited substance, the Board shall order Respondent to
7 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
8 medicine or providing medical services. The Board shall immediately notify all of Respondent's
9 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
10 provide medical services while the cease-practice order is in effect.

11 A biological fluid test will not be considered negative if a positive result is obtained while
12 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
13 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

14 After the issuance of a cease-practice order, the Board shall determine whether the positive
15 biological fluid test is in fact evidence of prohibited substance use by consulting with the
16 specimen collector and the laboratory, communicating with the licensee, his or her treating
17 physician(s), other health care provider, or group facilitator, as applicable.

18 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
19 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

20 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
21 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
22 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
23 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

24 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
25 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
26 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
27 any other terms or conditions the Board determines are necessary for public protection or to
28 enhance Respondent's rehabilitation.

1 17. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of
2 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its
3 prior approval, the name of a substance abuse support group which he or she shall attend for the
4 duration of probation. Respondent shall attend substance abuse support group meetings at least
5 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
6 abuse support group meeting costs.

7 The facilitator of the substance abuse support group meeting shall have a minimum of three
8 (3)-years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
9 or certified by the state or nationally certified organizations. The facilitator shall not have a
10 current or former financial, personal, or business relationship with Respondent within the last five
11 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
12 the same facilitator does not constitute a prohibited current or former financial, personal, or
13 business relationship.

14 The facilitator shall provide a signed document to the Board or its designee showing
15 Respondent's name, the group name, the date and location of the meeting, Respondent's
16 attendance, and Respondent's level of participation and progress. The facilitator shall report any
17 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
18 or its designee, within twenty-four (24) hours of the unexcused absence.

19 18. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
20 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
21 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
22 licensed physician and surgeon, other licensed health care professional if no physician and
23 surgeon is available, or, as approved by the Board or its designee, a person in a position of
24 authority who is capable of monitoring the Respondent at work.

25 The worksite monitor shall not have a current or former financial, personal, or familial
26 relationship with Respondent, or any other relationship that could reasonably be expected to
27 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
28 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite

1 monitor, this requirement may be waived by the Board or its designee, however, under no
2 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

3 The worksite monitor shall have an active unrestricted license with no disciplinary action
4 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
5 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
6 by the Board or its designee.

7 Respondent shall pay all worksite monitoring costs.

8 The worksite monitor shall have face-to-face contact with Respondent in the work
9 environment on as frequent a basis as determined by the Board or its designee, but not less than
10 once per week; interview other staff in the office regarding Respondent's behavior, if requested
11 by the Board or its designee; and review Respondent's work attendance.

12 The worksite monitor shall verbally report any suspected substance abuse to the Board and
13 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
14 substance abuse does not occur during the Board's normal business hours, the verbal report shall
15 be made to the Board or its designee within one (1) hour of the next business day. A written
16 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
17 any other information deemed important by the worksite monitor shall be submitted to the Board
18 or its designee within 48 hours of the occurrence.

19 The worksite monitor shall complete and submit a written report monthly or as directed by
20 the Board or its designee which shall include the following: (1) Respondent's name and
21 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
22 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
23 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
24 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
25 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
26 lead to suspected substance abuse by Respondent. Respondent shall complete any required
27 consent forms and execute agreements with the approved worksite monitor and the Board, or its
28 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

1 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
2 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
3 approval, the name and qualifications of a replacement monitor who will be assuming that
4 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a
5 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the
6 monitor, Respondent shall receive a notification from the Board or its designee to cease the
7 practice of medicine within three (3) calendar days after being so notified. Respondent shall
8 cease the practice of medicine until a replacement monitor is approved and assumes monitoring
9 responsibility.

10 19. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING
11 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of
12 probation.

13 A. If Respondent commits a major violation of probation as defined by section
14 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take
15 one or more of the following actions:

16 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical
17 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of
18 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice
19 order issued by the Board or its designee shall state that Respondent must test negative for at least
20 a month of continuous biological fluid testing before being allowed to resume practice. For
21 purposes of determining the length of time a Respondent must test negative while undergoing
22 continuous biological fluid testing following issuance of a cease-practice order, a month is
23 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until
24 notified in writing by the Board or its designee that he or she may do so.

25 (2) Increase the frequency of biological fluid testing.

26 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or
27 other action as determined by the Board or its designee.

28 B. If Respondent commits a minor violation of probation as defined by section

1 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take
2 one or more of the following actions:

- 3 (1) Issue a cease-practice order;
- 4 (2) Order practice limitations;
- 5 (3) Order or increase supervision of Respondent;
- 6 (4) Order increased documentation;
- 7 (5) Issue a citation and fine, or a warning letter;
- 8 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in
9 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of
10 Regulations, at Respondent's expense;
- 11 (7) Take any other action as determined by the Board or its designee.

12 C. Nothing in this Decision shall be considered a limitation on the Board's authority
13 to revoke Respondent's probation if he or she has violated any term or condition of probation. If
14 Respondent violates probation in any respect, the Board, after giving Respondent notice and the
15 opportunity to be heard, may revoke probation and carry out the disciplinary order that was
16 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed
17 against Respondent during probation, the Board shall have continuing jurisdiction until the matter
18 is final, and the period of probation shall be extended until the matter is final.

19 20. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
20 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
21 Chief Executive Officer at every hospital where privileges or membership are extended to
22 Respondent, at any other facility where Respondent engages in the practice of medicine,
23 including all physician and locum tenens registries or other similar agencies, and to the Chief
24 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
25 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
26 calendar days.

27 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

28 ///

1 21. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED
2 PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician
3 assistants and advanced practice nurses.

4 22. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
5 governing the practice of medicine in California and remain in full compliance with any court
6 ordered criminal probation, payments, and other orders.

7 23. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
8 under penalty of perjury on forms provided by the Board, stating whether there has been
9 compliance with all the conditions of probation.

10 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
11 of the preceding quarter.

12 24. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

14 Respondent shall comply with the Board's probation unit.

15 Address Changes

16 Respondent shall, at all times, keep the Board informed of Respondent's business and
17 residence addresses, email address (if available), and telephone number. Changes of such
18 addresses shall be immediately communicated in writing to the Board or its designee. Under no
19 circumstances shall a post office box serve as an address of record, except as allowed by Business
20 and Professions Code section 2021(b).

21 Place of Practice

22 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
23 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
24 facility.

25 License Renewal

26 Respondent shall maintain a current and renewed California physician's and surgeon's
27 license.

28 Travel or Residence Outside California

1 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
2 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
3 (30) calendar days.

4 In the event Respondent should leave the State of California to reside or to practice
5 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
6 departure and return.

7 25. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
8 available in person upon request for interviews either at Respondent's place of business or at the
9 probation unit office, with or without prior notice throughout the term of probation.

10 26. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
11 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
12 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
13 defined as any period of time Respondent is not practicing medicine as defined in Business and
14 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
15 patient care, clinical activity or teaching, or other activity as approved by the Board. If
16 Respondent resides in California and is considered to be in non-practice, Respondent shall
17 comply with all terms and conditions of probation. All time spent in an intensive training
18 program which has been approved by the Board or its designee shall not be considered non-
19 practice and does not relieve Respondent from complying with all the terms and conditions of
20 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
21 on probation with the medical licensing authority of that state or jurisdiction shall not be
22 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
23 period of non-practice.

24 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
25 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
26 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
27 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
28 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

1 Respondent's period of non-practice while on probation shall not exceed two (2) years.

2 Periods of non-practice will not apply to the reduction of the probationary term.

3 Periods of non-practice for a Respondent residing outside of California will relieve
4 Respondent of the responsibility to comply with the probationary terms and conditions with the
5 exception of this condition and the following terms and conditions of probation: Obey All Laws;
6 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
7 Controlled Substances; and Biological Fluid Testing..

8 27. COMPLETION OF PROBATION. Respondent shall comply with all financial
9 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
10 completion of probation. Upon successful completion of probation, Respondent's certificate shall
11 be fully restored.

12 28. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
13 of probation is a violation of probation. If Respondent violates probation in any respect, the
14 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
15 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
16 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
17 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
18 the matter is final.

19 29. LICENSE SURRENDER. Following the effective date of this Decision, if
20 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
21 the terms and conditions of probation, Respondent may request to surrender his or her license.
22 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
23 determining whether or not to grant the request, or to take any other action deemed appropriate
24 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
25 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
26 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
27 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
28 application shall be treated as a petition for reinstatement of a revoked certificate.

1 30. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
2 with probation monitoring each and every year of probation, as designated by the Board, which
3 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
4 California and delivered to the Board or its designee no later than January 31 of each calendar
5 year.

6
7 ACCEPTANCE

8 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
9 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
10 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
11 agree to be bound by the Decision and Order of the Medical Board of California.

12
13 DATED: 10/26/17

KARL BANDYAN, M.D.
Respondent

16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 Dated:

Respectfully submitted,

20 XAVIER BECERRA
Attorney General of California
21 JUDITH T. ALVARADO
Supervising Deputy Attorney General

22
23
24 TAN N. TRAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-009758

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 TAN N. TRAN
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4 State Bar No. 197775
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5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 897-6793
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-009758

12 **Karl Bandyan, M.D.**
13 **7020 Lennox Avenue, # 1**
Van Nuys, CA 91405

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. A 81272,**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about December 4, 2002, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 81272 to Karl Bandyan (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on November 30, 2018, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
2 violation of, or conspiring to violate any provision of this chapter.

3 "(b) Gross negligence.

4 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from
6 the applicable standard of care shall constitute repeated negligent acts.

7 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
12 applicable standard of care, each departure constitutes a separate and distinct breach of the
13 standard of care.

14 "(d) Incompetence.

15 "(e) The commission of any act involving dishonesty or corruption which is substantially
16 related to the qualifications, functions, or duties of a physician and surgeon.

17 "(f) Any action or conduct which would have warranted the denial of a certificate.

18 "(g) The practice of medicine from this state into another state or country without meeting
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
20 apply to this subdivision. This subdivision shall become operative upon the implementation of
21 the proposed registration program described in Section 2052.5.

22 "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
23 participate in an interview scheduled by Board. This subdivision shall only apply to a certificate
24 holder who is the subject of an investigation by the board."

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1 7. Section 2242 of the Code states:

2 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
3 without an appropriate prior examination and a medical indication, constitutes unprofessional
4 conduct.

5 "(b) No licensee shall be found to have committed unprofessional conduct within the
6 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
7 the following applies:

8 "(1) The licensee was a designated physician and surgeon or podiatrist serving in the
9 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs
10 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
11 of his or her practitioner, but in any case no longer than 72 hours.

12 "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
13 vocational nurse in an inpatient facility, and if both of the following conditions exist:

14 "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
15 who had reviewed the patient's records.

16 "(B) The practitioner was designated as the practitioner to serve in the absence of the
17 patient's physician and surgeon or podiatrist, as the case may be.

18 "(3) The licensee was a designated practitioner serving in the absence of the patient's
19 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
20 the patient's records and ordered the renewal of a medically indicated prescription for an amount
21 not exceeding the original prescription in strength or amount or for more than one refill.

22 "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
23 Code."

24 8. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain
25 adequate and accurate records relating to the provision of services to their patients constitutes
26 unprofessional conduct."

27 ///

28 ///

1 9. Section 725 of the Code states:

2 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
3 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
4 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
5 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
6 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
7 pathologist, or audiologist.

8 "(b) Any person who engages in repeated acts of clearly excessive prescribing or
9 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
10 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
11 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
12 imprisonment.

13 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
14 administering dangerous drugs or prescription controlled substances shall not be subject to
15 disciplinary action or prosecution under this section.

16 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
17 for treating intractable pain in compliance with Section 2241.5."

18 10. Section 2238 of the Code provides the following:

19 "A violation of any federal statute or federal regulation or any of the statutes or regulations
20 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
21 conduct."

22 11. Section 2239, subdivision (a), of the Code provides the following:

23 "The use or prescribing for or administering to himself or herself, of any controlled
24 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic
25 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to
26 any other person or to the public, or to the extent that such use impairs the ability of the licensee
27 to practice medicine safely or more than one misdemeanor or any felony involving the use,
28

1 consumption, or self-administration of any of the substances referred to in this section, or any
2 combination thereof, constitutes unprofessional conduct. The record of the conviction is
3 conclusive evidence of such unprofessional conduct.”

4 12. Health and Safety Code section 11153 states in pertinent part:

5 “(a) A prescription for a controlled substance shall only be issued for a legitimate medical
6 purpose by an individual practitioner acting in the usual course of his or her professional
7 practice...

8 “(b) Any person who knowingly violates this section shall be punished by imprisonment
9 in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty
10 thousand (\$20,000), or by both that fine and imprisonment...”

12 13. Health and Safety Code section 11157 states:

13 “No person shall issue a prescription that is false or fictitious in any respect.”

14 14. Health and Safety Code section 11173, subdivision (a), states:

15 “No person shall obtain or attempt to obtain controlled substances, or procure or attempt to
16 procure the administration of or prescription for a controlled substances, (1) by fraud, deceit,
17 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

19 FIRST CAUSE FOR DISCIPLINE

20 (Gross Negligence)

21 15. Respondent is subject to disciplinary action under section 2234, subdivision (b) of the
22 Code, in that he wrote prescriptions for controlled substances to himself using the alias “Karen
23 Bandyan” and prescriptions for family members/patients E.N., L.K., and A.N.¹ The
24 circumstances are as follows:

25 ///

27 ¹ The initials of these individuals are used to protect their privacy. Their true identities
28 will be disclosed to Respondent upon receipt of a proper discovery request.

1 A. After receiving a consumer complaint regarding Respondent, the Medical Board
2 (Board) began an investigation and reviewed prescriptions and documents showing Respondent's
3 prescribing practices/history. Said documents listed numerous prescriptions written on behalf of
4 Respondent and other "patients," including the alias "Karen Bandyan" used by Respondent, for
5 controlled and highly addictive prescription medications. Interviews with Respondent as well as
6 E.N., L.K., and A.N. confirmed that they had, in fact, received numerous prescriptions for
7 controlled substances from Respondent.

8 B. Board investigators also interviewed other witnesses such as pharmacists, who
9 informed the Board that Respondent would often pick up the prescriptions himself, and would
10 sometimes become belligerent when told that the pharmacies could not fill said prescriptions.
11 Board investigators subsequently asked Respondent for the medical records of Karen Bandyan,
12 the alias used by Respondent, E.N., L.K., and A.N., and was informed that none were available.²

13 C. Respondent engaged in gross negligence as follows:

14 (1) By repeatedly prescribing controlled substances to himself using the alias
15 "Karen Bandyan" and to his family members, E.N., L.K., and A.N.

16 (2) By failing to provide even a modicum of essential information in
17 Respondent's records regarding the necessity/justification for the prescriptions,
18 thus representing an extreme departure from the standard of care.

19 (3) By prescribing addictive medications to himself using the alias "Karen
20 Bandyan" and multiple other individuals, without any accessible medical records
21 documenting an appropriate medical exam, the rationale for the use of such
22 medications, or their impact on the symptoms that Respondent was ostensibly
23 treating.

24 ///

25 ///

26
27 ² Specifically, Respondent signed declarations certifying that no records existed for Karen
28 Bandyan, E.N., L.K., and A.N. Respondent claimed that he did keep a medical chart for L.K., but
that said chart had been lost.

1 SECOND CAUSE FOR DISCIPLINE

2 (Repeated Negligent Acts)

3 16. By reason of the facts and opinions set forth in the First Cause for Discipline above,
4 Respondent is subject to disciplinary action under section 2234, subdivision (c) of the Code, in
5 that Respondent engaged in acts and omissions, constituting repeated negligent acts.

6 THIRD CAUSE FOR DISCIPLINE

7 (Prescribing Without Exam/Indication)

8 17. By reason of the facts and opinions set forth in the First Cause for Discipline above,
9 Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent
10 prescribed dangerous drugs to himself and other patients without an appropriate prior
11 examination or medical indication therefor.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Excessive Prescribing)

14 18. By reason of the facts and opinions set forth in the First Cause for Discipline above,
15 Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent
16 excessively prescribed dangerous drugs to himself and other patients.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Inadequate Records)

19 19. By reason of the facts and opinions set forth in the First Cause for Discipline above,
20 Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent
21 failed to maintain adequate and accurate records of his care and treatment of patients.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Dishonest Acts)

24 20. By reason of the facts and opinions set forth in the First Cause for Discipline above,
25 Respondent is subject to disciplinary action for dishonest acts under section 2234, subdivision (e)
26 of the Code, in that he would often prescribe controlled substances to himself using the alias
27
28

1 "Karen Bandyen" and attempt to fill/pick up prescriptions, ostensibly written for other
2 individuals.

3 SEVENTH CAUSE FOR DISCIPLINE

4 (Violation of Drug Statutes)

5 21. By reason of the facts and opinions set forth in the First Cause for Discipline above,
6 Respondent is subject to disciplinary action for violating drug statutes under section 2238 of the
7 Code.

8 EIGHTH CAUSE FOR DISCIPLINE

9 (Misuse of Controlled Substances)

10 22. By reason of the facts and opinions set forth in the First Cause for Discipline above,
11 Respondent is subject to disciplinary action for misuse of controlled substances under section
12 2239, subdivision (a) of the Code.

13 NINTH CAUSE FOR DISCIPLINE

14 (Illegitimate Prescriptions)

15 23. By reason of the facts and opinions set forth in the First Cause for Discipline above,
16 Respondent is subject to disciplinary action for prescribing illegitimate prescriptions for
17 controlled substances in violation of Health and Safety Code section 11153.

18 TENTH CAUSE FOR DISCIPLINE

19 (False/Fictitious Prescriptions)

20 24. By reason of the facts and opinions set forth in the First Cause for Discipline above,
21 Respondent is subject to disciplinary action for issuing false/fictitious prescriptions for controlled
22 substances in violation of Health and Safety Code section 11157.

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1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Obtaining Prescriptions by Fraud/Deceit)

3 25. By reason of the facts and opinions set forth in the First Cause for Discipline above,
4 Respondent is subject to disciplinary action for obtaining/procuring prescriptions for controlled
5 substances by fraud/deceit in violation of Health and Safety Code section 11173, subdivision (a),
6 in that he would often prescribe controlled substances to himself using the alias "Karen Bandyan"
7 and attempt to fill/pick up prescriptions, ostensibly written for other individuals.

8
9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Medical Board of California issue a decision:

- 12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 81272,
13 issued to Karl Bandyan, M.D.;
- 14 2. Revoking, suspending or denying approval of Karl Bandyan M.D.'s authority to
15 supervise physician assistants and advanced practice nurses;
- 16 3. Ordering Karl Bandyan, M.D., if placed on probation, to pay the Board the costs of
17 probation monitoring; and
- 18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: September 15, 2017


21 KIMBERLY KIRCHMEYER
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California
26 Complainant

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